Teknologiateollisuus

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EU BEFIT - Looking from the Finnish technology industries' perspective

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BEFIT
Business in Europe: Framework for Income Taxation

European Commission’s proposal

What is BEFIT's goal

In the action plan **Business Taxation for the 21st Century**, the Commission announced a proposal for a new framework for income taxation for businesses to:

(i) boost the competitiveness of the single market;

(ii) reduce compliance costs, including for small to medium-sized enterprises (SMEs); and

(iii) to support investment in the EU.

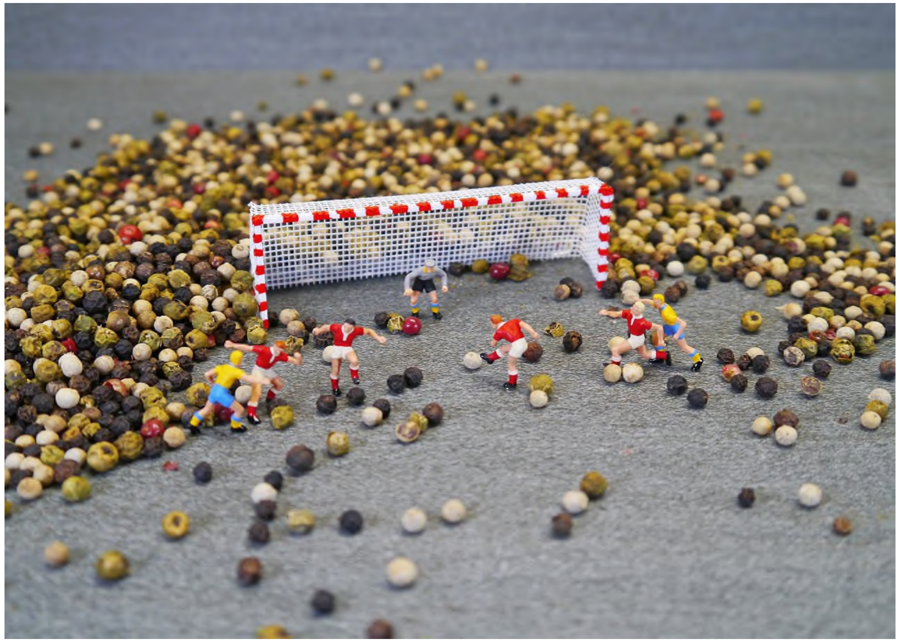
This new proposal is known as **Business in Europe: Framework for Income Taxation (BEFIT)**.

Key objectives:

1) to increase businesses' resilience by **reducing the complexity of tax rules and the compliance costs** faced by EU businesses operating across borders;

2) to remove obstacles to cross-border investment and **make the single market a more attractive** location for international investment;

3) to create an **environment conducive to fair and sustainable growth** by paving the way for administrative simplification; and



4) to provide **sustainable tax revenue**, which is particularly important in the current challenging economic climate.

To ensure cost-efficiency, the proposal should be consistent with, and **where possible build on, the principles that underlie the OECD's two-pillar approach**.

Schedule and previous goals

BEFIT consultation 1/2023

Commission staff working paper Company Taxation in the Internal Market SEC(2001) 1681

10/2001

Directive Proposal CCCTB COM (2011) 121/4

3/2011

Re-launc
CCTB and CCCTB directive proposals

10/2016

EC's proposal new own resources incl. CCCTB

2018

CCCTB withdrawn and replaced with BEFIT

5/2021

New own recources directive proposal (Pillar 1, ETS, CBAM)

12/2021

BEFIT directive proposal and new own resources bucket II (BEFIT) to be published

Q3/2023

2001-2011

Better functioning single market, EU's competitiveness,support growth

2016

Fight tax avoidance, (improve single market, support growth)

Cover the budget gap due to BREXIT (2016-2020)

2018

EU's future functions To strengthen EU's long term budget MFF "new own resources"

2019-2021

Environme and sustainability

ETS, CBAM, Plastic tax:

Green Deal (2019)

Fit for 55 (2021)

2/2021

COVID, Recovery resilience facility RRF, MFF

Q3/2023

Comprehe ive solution for EU business taxation. Update taxation to 21st Century. Reduce compliance costs.

EC’s new own resources proposal

The European Commission has proposed that the recovery package (RRF) and long-term budget (MFF) would be partially funded with new own resources, including various taxes, including:

- CCCTB (replaced by) -> BEFIT (Business in Europe: Framework for Income Taxation)
- EU’s DST, digital services tax (replaced by) -> 15 % of the OECD Pillar 1, Amount A revenues
- 25% of the extended ETS income (Emission Trading System)
- 75% of CBAM income (Carbon Border Adjustment Mechanism)
- Taxation of disposable plastics (already in use)
- FTT (Financial Transaction Tax)
- Single Market Tax -> EU fair border mechanism (2023 proposal?)
- Cryptocurrency tax (2023 proposal?)

- 2018: Proposal for a Council Decision on the system of Own Resources of the European Union COM(2018)325 final and Commission staff working document Financing the EU budget: report on the operation of the own resources system SWD(2018) 172 final
- 2020: Council decision 2020/2053 of 14 December 2020 on the system of own resources of the European Union
- 2021: First new own resources –bucket directive proposal (Pillar 1, ETS, CBAM)
- 2023: EC expected to release the second new own resources -bucket in September 2023 (BEFIT, FTT, others?)

Final model not published – directive Q3/2023

Policy options described in the public hearing, if an EU action is chosen to be enhanced (vs. no EU action):

- a common tax base together with
- an allocation of profits to Member States based on a formula.
- directive (not soft law)
- five key building blocks of the system under consideration (BEFIT) set out:

A) **Scope**

- Option 1: Groups with consolidated global revenues exceeding EUR 750 million. The definition of a group of companies would be aligned with the definition used in the minimum tax directive (pillar 2).
- Option 2: Broader scope, lower revenue threshold. A wider scope would be of particular interest to SMEs with cross-border activities or those that envisage scaling up and starting to operate across borders soon. These SMEs could opt in to BEFIT to benefit from common EU rules on tax base and the allocation of profits.
- limited sectoral carveouts (financial services sector?)

Final model not published – directive Q3/2023

B) **Tax base calculation**

- Option 1: Limited tax adjustments would be applied to the income reported in the financial statements of the group entities falling under BEFIT. Financial statements would have to be prepared in accordance with the same accounting standard, authorised for use in the EU.
- Option 2: Comprehensive corporate tax system with detailed rules for all aspects of profit/tax determination, rather than building a system based on financial accounting like in option. Member States would have to run two comprehensive sets of corporate tax rules in parallel, i.e. BEFIT and their national rules.

Final model not published – directive Q3/2023

C) **Formula for allocating taxable profits** to those Member States in which the group falling under BEFIT maintains a taxable presence. A formulary apportionment factors should reflect the source of income generation.

- Option 1: Formula without incorporating intangible assets
  - tangible assets (excluding financial assets unless in a sector-specific version);
  - labour (possibly, equally shared between personnel and salaries); and
  - sales by destination. Other variations of the factors to be used in the formula are possible, but the prevailing view in historical literature is that these factors should reflect the income generation most accurately and be the least prone to abuse.
- Option 2: Formula incorporating intangible assets
  - Same three factors, as in option 1
  - \+ intangible assets (to cater for the realities of modern economies). More specifically, intangible assets could be included by using a proxy value, which could consist of aspects such as research and development expenses and costs for marketing and advertising.

Final model not published - directive Q3/2023

D) The allocation of profit to related **entities outside the group**. It is envisaged that the current **transfer pricing** principles would continue to apply to transactions with related entities resident outside the consolidated group.

- Option 1: Simplified approach to transfer pricing. The proposal would envisage a simplified approach to the administration of transfer pricing rules based on macroeconomic industry benchmarks. The aim would not be to replace the arm's length principle. In fact, businesses would still need to carry out the necessary transfer pricing analysis. The envisaged rules would only provide guidance on tax authorities' risk approach to businesses' transactions with related entities outside the consolidated group.
- Option 2: Keep current transfer pricing rules.

E) The **administration** aspect of BEFIT, and any tax system, is an integral part of the system. One of the key goals of BEFIT is to reduce compliance and administrative costs for taxpayers and Member States, so the design of this building block will require careful consideration.

Impact assessment being drafted.

BEFIT directive proposal to be published Q3/2023

OECD Pillars as ”source of inspiration”

- The EC is using the OECD Pillars to the BEFIT proposal by:
  - OECD's Pillar 2 rules (EU minimum tax directive) would be re-purposed to establish common rules for the calculation of the corporate tax base.
  - Include a formulary apportionment which, it seems, would build on the reallocation of profits under Pillar 1.
- Pillar 1:
  - Agreement likely not reached in June 2023
  - Will US agree? Not likely.
  - If Pillar 1 fails are the EU’s digital services tax and domestic DST’s on the table again?
- Pillar 2:
  - EU minimum tax directive: unanimous agreement in 12/2022. All Member states have to implement by 12/2023.
  - OECD has continued the work on the Pillar 2 GloBE model rules: commentary, GloBE “tax return”, administrative guidance, safe harbours),
  - but the directive is based on the text 12/2022. The directive must be “compatible” with the OECD Pillar 2 model rules.

BEFIT – Technology Industries of Finalnd’s comments to the initiative January 2023

Summary of TIF’s comments on BEFIT

- The said goals of BEFIT are highly supportable, but BEFIT is not the correct tool, nor is it introduced at the right time. **The BEFIT proposal should be postponed and discussed only after the OECD pillars and the EU minimum taxation directive are in place, fully and successfully implemented and operated for several years.**
- If, however, the BEFIT directive proposal is drafted and published Q3/2023, there are key conditions that need to be met in order for the BEFIT to be attractive to businesses:
  - **BEFIT should always be optional for business**.
  - **Intangibles must be included in the allocation formula.** Value creation in the digitalising economy relies on intangible assets. A decades old allocation formula is not sustainable and up to date.
  - An introduction of **a cross-border tax relief** would be considered a welcome improvement and boost competitiveness of the EU single market.
  - The **tax base calculation rules must be built on the OECD pillar 2 model rules** and accompanying documents and minimum taxation directive. No deviating tax base calculation rules.
  - The goal must be to **make taxation simpler**. It should use a “**one stop shop**” -model allowing for the filing of one consolidated tax return.
  - The BEFIT model **must include considerable R&D tax incentives,** boosting double transition to green and digital business.
  - **Tax rates should be decided by national governments.**
  - **Current transfer pricing rules and arm’s length principle need to be kept in force.**

BEFIT must be always optional

- The model has to be **made so attractive that companies will prefer joining it** rather than staying outside the system. If optional, also companies below a possible threshold of e.g. 750 million euros should be accepted to use the model, in case they choose to opt in.

- Regardless of how competitive a new system is said to be, any shift from a domestic tax system to a common system within the EU will **entail significant costs**. These costs may, at least temporarily, outweigh the benefits of a new system. Making BEFIT obligatory as soon as a group establishes itself in another Member State would **introduce obstacles to growth and cross-border expansion**. As more than 85 % of our member companies are SMEs but most have cross-border activities, we worry that making the BEFIT obligatory would cause significant costs to these companies affecting their business and growth.

- For governments an optional system entails the benefit of a gradual adoption by businesses, thereby ensuring a limited short-term impact on corporate tax revenues. Governments would in any case have to administer two corporate tax systems, unless they do not make all businesses forced to apply the new corporate tax rules irrespective of any presence of cross-border activity, size and business model.

Clear purpose: address cross-border tax obstacles and promote growth

- CCCTB was originally launched to address cross-border tax obstacles and boost growth. In our opinion, this should remain the focus of the CCCTB's successor BEFIT.
- If the BEFIT would entail neutralisation of intra-group transactions, it would provide important stability and certainty for the taxpayer.
- The tax base calculation of p**illar 2 should not be a "source of inspiration", it should be a solid building block as is.** The EC is continuously building tax models said to be in line with the global (OECD) model but are still different. On top of that each Member State will make unilateral changes to their national legislation. **The result of BEFIT is three layers of overlapping tax legislation, double taxation, disputes and unreasonable administrative costs.**

- EU, OECD and the Member States have invested great effort in combating harmful practices in the recent years. Most recently, the EU reached an unanimous agreement on the minimum tax directive in December 2022. We do not have experience on how successful the new measures will be in reaching the desired outcomes, but it can be reasonably expected that they remove all material planning alternatives. That has at least been the promise from policy makers. Therefore, it would be **beneficial for EU to give the new measures a fair chance before launching new and potentially harmful measures.**

Allocation formula is outdated – not fair taxation

- The **root problem is that the EC is trying to modernize taxation system by using a tax model and allocation formula reflecting the business and world of the 1960s**, when the idea of an EU business income tax system was created.

- Finland is a small, net-exporting country that relies on high value creation through R&D&I (research, development and innovation) and intangible assets. Finland has just introduced two R&D tax incentives, because the **crucial importance of R&D&I-investments in boosting green growth was seen evident.** Thus, Finland supports R&D&I with its tax revenues, from the national budget. The BEFIT allocation formula would result in the small export driven countries to carry the losses and costs of supporting innovation and growth, but the large Member States having more sales by destination would be allocated more tax revenues even though they have not contributed to the R&D&I investments. This would disincentivise R&D&I investments. There are several researches supporting the analysis that larges countries would benefit at the expense of small Member States such as Finland. **TIF does not consider this to be fair taxation on a Member State level.**

- The EC emphasizes, that an essential principle for a fair taxation is to ensure that a business pays taxes where its profits and value are created and generated. TIF agrees that this established principle, also supported by the OECD, is the only reasonable way to allocate taxable profits and value. However, TIF is of the opinion that **the location of the consumer is not a key value driver.**

Intangible assets must be included in the formula

- **Intangible assets are a progressively increasing value driver to today's economy**. In the consultation request the EC recognises this and describes that one of the problems that the initiative aims to tackle is:

  > ”the current corporate tax systems do not fully reflect the realities of today's economy and global developments as they are still mainly based on the principles of local brick-and-mortar production. These principles are believed to be outdated since globalisation, digitalisation and the intensified use of intangibles have substantially changed how companies do business. These changes should also be reflected in how they are taxed.

- The EC has suggested that the formulary apportionment is a percentage calculated based on amounts of tangible assets, employees and sales by destination. This seems to fail to allocate taxable profit where the value is created. In stead, **the formula would allocate taxable income to the country of sales.** This is especially true concerning digitalised economy companies, where tangible assets are not so relevant, and the businesses derive much of their value from intangible assets. The current allocation formula does not encourage Member States to invest in digitalization and new technologies, R&D etc.

- Digitalising businesses and companies rely heavily on intangible assets, data and knowledge, which are becoming more and more the value drivers within multinational groups, and which are difficult to identify and value. TIF is strongly of the opinion, that the solution to this difficulty cannot be that intangible assets will not be given a value at all. **Intangible assets must be added to the allocation formula of the BEFIT proposal.**

Environmental values needs to be valued

- The **suggested BEFIT allocation formula does not give any value to environmental issues, efficiency, productivity, value add**. It does not give weight to benefits of circular economy, digitalisation, automatisation, robotics etc. This could **hinder the Member States' and companies' incentives to find environmentally friendly, effective solutions.** One major element of green transition is digitalisation. How can the EU have a more digital economy if the value of digitalisation is not understood or recognized in a new EU wide corporate tax system.

- BEFIT could also lead to **inefficient group structures**: equity and assets trapped to companies (and not to green investments), personnel and fixed assets (or leasing/renovation costs) located in countries with the lowest tax rates. The increasing amount of distance work adds an element to this discussion. Will the BEFIT allocation formula value only the physical presence of personnel or how will distance workers be valued? Or will distance work be banned and all need to start travelling again? Not very environmentally friendly.

- Allocating taxable profits based on sales gives an incentive to a Member State to maximize the purchase power and consumption of its companies and consumers. **Expecting constant growth of consumption is not sustainable from the environmental perspective.**

Sales by destination – a major risk to data privacy

If sales by destination -element is added to the BEFIT allocation formula, **risks with data privacy will emerge related to tracking the true, even real-time location of the customer.**

The GDPR limits e.g. the type of data that can be gathered, the purposes and who can collect and supply the data and how long data can be stored. The data privacy aspect needs to be considered also in the relationship between the group companies and companies in a tax paying position and third parties.

- If personal data needs to be processed to allocate taxes, it should be carefully considered what would be the minimum dataset subject to processing and how to minimise risks incurred by the processing. All the data processed needs to be limited to strictly necessary to facilitate taxation.
- Usually giving access to data is limited to certain use. Data privacy rules and nondisclosure rules limit the use of data. Thus, if the the 3rd party companies are required to collect and report consumer data, contracts would have to be renegotiated to allow using data for taxation purposes. This seems to be an unreasonable demand.
- The company liable to collect the user data and in a taxpaying position might not be in such a "negotiating position" that it can force the 3rd party contractors to collect and deliver the required data in given time and without extra costs.

Sales by destination – a major risk to data privacy

- Even a small company might be obliged to collect and report the user data to an in-scope bigger company. A tiny SME does not have personnel nor tools to do this. Thus, sales by destination rules might result in extensive costs to 3rd parties and notable risk of data privacy sanctions.
- Taxation is likely an acceptable reason for the company in a tax paying position to collect personal geolocation or other relevant personal data required to be collected for BEFIT purposes. However, what is the legal situation concerning 3rd party companies or group companies not in a tax paying position? Would BEFIT rules require changes to GDPR regulation and changes to all companies bound to GDPR rules?
- Even the smallest 3rd party companies would have to be competent to evaluate whether the customer data request is such that it can be fulfilled without breaching the GDPR legislation. Data can only be requested to specified use and only to the limit absolutely necessary to that specified use.
- Due to GDPR regulation, user data cannot be collected for tax purposes before the tax liability is triggered, i.e. once the legislation is in force and the company is in scope.
- Data privacy and business secret issues are at risk when collecting and delivering data from 3rd party companies and through multiple distributors or group companies.

Pre-BEFIT costs and losses

...but no tax revenue to pay for them

- The proposed BEFIT allocation formula would erode especially small Member States' tax base. Today, the taxes are principally paid to the country where the value is created. For example, relevant R&D-functions require skilled employees. **All education costs and contributions to digitalisation would be a cost to Member States and companies, but there would not be taxable income to pay the costs.**
- **Start-ups and heavily investing companies typically generate losses** when building up their business and even longer. The loss can arise when BEFIT is not applicable due to revenue thresholds. However, if the company becomes profitable while BEFIT is applicable, the **losses can only be utilized in the country where they have originated**. The outcome does not encourage risk-taking or entrepreneurship, as governments in customer countries are getting compensation before owners and creditors, who have financed building of the starts-up and growth companies. Neither it is fair for the country, where the business has been ramped-up. That country is stuck with pre-BEFIT tax losses, while other countries receive the revenues.
- In the minimum, BEFIT should allow pre-BEFIT losses and other tax attributes to be carried over to the BEFIT group. Otherwise, the model will lead to unreasonable outcomes. As a result, a company can be cumulatively loss making, while it still has to pay taxes.

VAT is a consumption tax

…corporate income tax is not

- The EU taxation system must be considered in its entirety, also when considering the taxation of digitalising economy. Value-added taxation allocates taxes to the residence country of the consumer. Each country where the consumer is located applies their local VAT percentage to collect taxes. Therefore, implementing destination based sales -factor to corporate income taxation would mean allocating more taxes to big markets.
- Also, similar type of problems, as value added taxation has faced over the years, could be triggered concerning the concept of destination based sales -factor, for example related to tracking the true location of the customer.
- The OECD's pillar 1 Amount A would already allocate part of the taxation rights to the country of consumption. **Introducing multiple corporate tax models based on consumption is not sustainable nor fair to the smaller Member States.**

BEFIT seems to add administrative burden

- First and third key objectives of the BEFIT initiative are "to increase businesses' resilience by reducing the complexity of tax rules and the compliance costs faced by EU businesses operating across borders" and "to create an environment conducive to fair and sustainable growth by paving the way for administrative simplification." **TIF agrees that the current administrative costs of complying with up to 27 different tax regimes constitute major obstacles to cross-border business activity in Europe. Thus, these objectives of BEFIT are fully supportable.**
- Companies must be able to be tax compliant: tax laws must be clear, comprehensive and efficient, predictable and as simple as possible. TIF is pleased that one of the main objectives of the Commission's Communication on Business Taxation for the 21st Century is to reduce the administrative burden of taxation. The Commission has also launched projects (including an Action Plan to Fight Tax Evasion and Making Taxation Simple and Easy) to increase the use of digital taxation tools and to simplify tax reporting. TIF's opinion is that **digitalization of taxation is the correct path to make the single market competitive and appealing for companies.**

- **However, BEFIT does not seem to its key objectives.**

BEFIT seems to add administrative burden

TIF does not see that the BEFIT would meet its key objectives.

- All changes in taxation mean costly changes to companies' systems and are unpredictable. Introducing totally new and different taxation systems (especially such a huge reform as the BEFIT), will cause significant uncertainty. For example, the VAT directive has been in force for over 40 years and despite the additional specifications to the directive and the vast amount of jurisprudence, there still are disagreements on the interpretation of the directive. Therefore, an international approach (OECD) is the only reasonable option.
- **Transfer pricing and taxation with countries outside of EU will continue to exist** even if an EU BEFIT was agreed. For companies doing business outside EU, the BEFIT is considered mainly as an extra layer of work.
- Companies worry that there is **no predictability on where the taxable income will be allocated**, as the sales by destination -factor is unpredictable. Thus, taxable income could be allocated to a country, where there are no actual funds to pay the tax. This unpredictability in the allocation formula seems to trigger a barrier to expand business operations to other EU countries.
- The Minimum Tax Directive was accepted in December 2022 and the Member States have until 31.12.2023 to implement it. **Tax calculation rules in the directive and the OECD model rules and accompanying rules are very complex.** Introducing deviating BEFIT tax base calculation rules would add complexity and administrative costs immensely. **The cumulative effect of the combination of all the rules is unreasonably heavy.**

BEFIT – effect to Finland’s tax revenues

Reallocation of taxing rights

The recent international tax proposals are suggesting to allocate significantly more taxation rights to the country of consumption. Such proposals are, for example:

1. EU’s business taxation BEFIT model
2. previously proposed EU digital tax and CCCTB model
3. OECD's new Pillar 1 Amount A model, which allocates part of the excess profit of large and profitable international groups to the market country

Value creation – transfer pricing

According to transfer pricing, the value creation relates to e.g.

- Most valuable functions
- bearing of risks (e.g. business, financial and research and development risks)
- Ability to perform these (relevant employees, management, finance)

An intangible asset is usually an asset that affects transfer pricing. Such assets include e.g. trademarks and patents, but also the technology, production know-how and cost-effective production network developed by the production company can be valuable intangible assets.

The BEFIT proposal would change this value creation principle.

The BEFIT allocation formula does not give value or support to sustainability, investments, R&D, efficiency (energy and material), digitalization, robotization, automation.

Reallocation of taxing rights from Finland to ?

BEFIT would likely allocate significantly more taxation rights to the country of consumption.

- EU taxation must be fair to all EU Member States. The EC must always perform a reliable impact assessment to evaluate the new taxes' effect on growth, competitiveness and trade relations of the EU.
- If less tax revenue is directed to the Finnish budget due to changes in EU taxation, the shrinking tax base in Finland must not be compensated by increasing corporate and ownership taxation. Decisions on EU's own resources and funding, as well as taxation must remain primarily a matter for the Member States' sovereignty and require unanimity. There should be no shift to qualified majority voting (QMV) in the EU in tax matters.
- Always, when possible, a global tax model should be preferred and supported. Introducing globally different EU-wide corporate income taxation systems does not support companies to locate in the EU, and results in additional administrative costs, hitting the SMEs hardest. Thus, does not promote level playing field. Globally different tax systems are likely to cause expensive tax disputes, double taxation, heavy administrative costs, possible protective counter tax legislation and increased tax burden for EU companies. This does not enhance proper functioning of the Digital Single Market (DSM) and is likely to harm the competitiveness and growth throughout the EU.

Reallocation of taxing rights from Finland to ?

- The fourth key object of the BEFIT initiative is “to provide sustainable tax revenue”. The EC has suggested the BEFIT would be introduced as a “new own resource”. Thus, a part of the taxable income resulting from BEFIT would go directly to EU’s budget, not to the Member States. Due to the continuous crisis additional tax revenues are needed all over the EU.

- However, the BEFIT allocation formula might lead to less tax income for group companies in the EU and the Member States. Companies are reporting that group companies in e.g. China and India, are questioning the principles of income allocation. If in a group company inside the EU the amount of personnel is 100 and in India 700, there have been requests to allocate more income to e.g. India, no matter what the value add is in the work done there. As for now, the parent companies can prove that arm’s length principle has been used and the allocation has been done correctly and equally, so that profit is taxed where the value was created. **If, however, all of EU agrees that the value add or intangible assets have no meaning and the only issues to be considered are sales by destination, amount of personnel, paid salaries and tangible assets, more taxable income will be without a doubt be allocated outside of the EU.**

- **Current transfer pricing rules and arm’s length principle need to be kept in force.**

Simplified, theoretical examples on the effect of the apportionment formula

Case 1

A software company A Oy in Finland is the parent company of an international group. A Oy is responsible for the sales, marketing and R&D, and owns IP rights. It also carries all the relevant risks and does the decisions related to the business. Company B Ltd in Poland performs routine programming, does not make any decisions or own any IP. The group also has sales personnel in Germany, France, Spain and Italy.

According to current principles, B Ltd and the sales companies in other EU-countries would be entitled to routine profit, and the residual would be allocated to A Oy (principal). This way the profit is taxed where the value has been created (all the relevant actions, risks and decisions, R&D, IP is in the hands of A Oy).

Taxable profit:

Finland = 78 %

Poland = 6 %

Germany, France, Spain, Italy = 4 % each

The group has 600 employees, of which 360 in Finland, 120 in Poland, 30 in Germany, Spain, France and Italy each. Monthly salaries are 4.000 €/per person in all other countries, in Poland 2.000 €. The group companies do not own any relevant tangible assets, only office rental costs.

Simplified, theoretical examples on the effect of the apportionment formula

Case 1

BEFIT:

Consolidated taxable profits are suggested to be shared between the EU-countries using and apportionment formula, based on 3 equally weighted factors:

- tangible assets,
- labour (number of employees and employment costs) and
- sales by destination.

For this highly simplified example, to illustrate the sales by destination factor, the population amount has been used as the base.

Country	**A) Tangible assets** (rental costs); %/total	Employees, amount; %/total	Labour costs: monthly salary (Poland 2.000 €, others 4.000 €) X 12,5 X 1,3-1,4 (social security contributions); %/total	**B) Labour factor**, total %	Population	**C)** Population /total amount: illustrating **sales by destination** (B2C), %	**Apportionment formula**, (1/3*A + 1/3*B + 1/3*C) %
Finland	2 000 000	360	25 200 000		5 500 000		
	64,52 %	60,00 %	67,20 %	63,60 %		1,82 %	43,31 %
Poland	300 000	120	3 900 000		38 000 000		
	9,68 %	20,00 %	10,40 %	15,20 %		12,60 %	12,49 %
Germany	200 000	30	2 100 000		83 000 000		
	6,45 %	5 %	5,60 %	5,30 %		27,53 %	13,09 %
France	200 000	30	2 100 000		67 000 000		
	6,45 %	5 %	5,60 %	5,30 %		22,22 %	11,32 %
Spain	200 000	30	2 100 000		47 000 000		
	6,45 %	5 %	5,60 %	5,30 %		15,59 %	9,11 %
Italy	200 000	30	2 100 000		61 000 000		
	6,45 %	5 %	5,60 %	5,30 %		20,23 %	10,66 %
Total	3 100 000	600	37 500 000		301 500 000		

Simplified, theoretical examples on the effect of the apportionment formula

Case 2

A 3D-printing company A is located in Belgium. The service includes planning and 3D-modelling of the product together with the client, but also using a service (ecosystem) where 50 freelancer designers participate in the planning (co-creation) and are each rewarded with benefits to the ecosystem, or micropayments from all over the world. Company A owns most of the IP rights, makes the decisions and carries the risks. The product is printed in the customers home country Germany, using a 3D-printer owned by group company B. Most of the taxable profit is allocated to company A, but company B also receives a share.

Simplified, theoretical examples on the effect of the apportionment formula

Case 2
BEFIT:
A does not have much tangible assets, work is done mainly as remote work (no office owned or rented) and the 3D-printers are not owned by company A (for sales in Belgium company A uses collective 3D-printers, a 3D-printing service). As the planning is done as a co-creation, the amount of personnel and paid salaries is lower.

The 3D-printing in Germany does not require much personnel, but the 3D-printer (tangible asset) is expensive. Also sales by destination-factor is likely allocated to Germany. Thus, the company B in Germany will be allocated most of the taxable income, even though the value is created in company A.

According to the old CCCTB-directive proposal, if the sales destination is outside EU, the sales would be attributed to the group companies in proportion to the tangible asset- and labour -factors alone. When the amount of both factors is low, the taxable income calculation could be totally unpredictable as e.g. purchasing tangible assets (e.g. real estate) in a country of low tax rate, would toss the apportionment formula in favour of that country.

How will the models affect Finnish companies and Finland?

Relevant to Finland

- Export country
- Small market
- Ecosystem
- Environment
- Data privacy

Functional EU single market is important for Finland

- Goal is to get more digital/digitalising companies to locate in Europe. A well functioning digital single market is also one of the TOP10-goals of the EC/EU.
- Implementing new taxes models is not the way to be a tempting environment. In case the legislation is very complex, only the largest companies will manage to be compliant.
- In BEFIT the taxation right is allocated more to the consuming country. This can be considered as a confusing message of distrust: the EC does not expect the European companies to grow and sell outside of the EU?
- Taxation has to be fair for all Member States as well. Allocating taxing rights to large markets will likely result in small countries loosing.
- Of all exports of TIF member companies’, 60 % goes to Europe. Trade wars and protective tarriffs would harm Finnish companies directly and indirectly.

Impact to SMEs

Major part of Finnish companies might be out of scope for BEFIT (or not), due to the revenue threshold.

Impacts for SMEs could still be caused:

- Ecosystem: increased tax costs will be passed on to local businesses (also geoblocking).
- Revenue sourcing, location data of the consumer:
  - There are 2,000 companies in Finland that are a part of a MNE group, exceeding the €750M threshold. Additional administrative costs for collecting data for the parent company.
  - Also third parties can be liable to collect and provide consumer data for the MNE in a tax paying position.
- Growing and expanding business in the future would trigger the BEFIT.
- Finnish legislation might be altered partially to cover all companies – two layers of different legislation might not be preferred.
- If Finland will lose tax revenues, other tax increases might become reality.

Anything good?

Even though the BEFIT model is not the best way forward, there are positive aspects too.

- Key objectives are highly supportable:
  - reducing the complexity of tax rules and the compliance costs
  - remove obstacles to cross-border investment
  - make the single market a more attractive location
  - create an environment conducive to fair and sustainable growth
  - provide sustainable tax revenue
  - build on, the principles that underlie the OECD's two-pillar approach.
- EU has pushed the OECD to proceed with its work to modernize the business tax system
- The key focus is back to support growth etc. not to package everything as a mean to fight tax avoidance
- Understanding (at least a bit more), that the businesses' reporting requirements have increased immensely and now we need to consider digitalization of taxation and making taxation easier.
- Trying actively to create a sustainable, up-to-date, harmonized, less burdensome corporate income tax model. E.g. an introduction of a cross-border tax relief and strong R&D tax incentives would be considered welcome improvements.